REMARKS/ARGUMENTS

In view of the amendments and remarks presented herein, favorable consideration and allowance of this application are respectfully requested.

In Applicant's Response dated September 20, 2007, Applicant submitted amendments to Figures 2 and 11 along with replacement sheets for those Figures. Applicant respectfully requests that the Examiner confirm that these drawing amendments and replacement sheets were formally entered into the prosecution file or inform Applicant otherwise.

By this amendment, claims 1, 4, 5, 9, 10 and 11 are amended above so as to more particularly point out and distinctly set forth some of the novel and patentable features of one or more of the non-limiting exemplary implementations disclosed in Applicant's specification. The Abstract is also further amended to more clearly summarize the novel and patentable features as set forth in the claims as amended. The amendments are fully supported by the original disclosure and, thus, no new matter has been added. If the Examiner should disagree, however, it is respectfully requested that the challenged amendments/limitations be pointed out with particularity in the next Action so support may be cited in response.

The rejections of claims 1, 2, 5-7 and 10 under 35 U.S.C. §103(a) as allegedly being unpatentable over Miyamoto (U.S. Patent No. 6,220,964) in view of Ohno et al. (U.S. Patent No. 5,609,525) and claims 4, 9 and 11 under 35 U.S.C. §103(a) as allegedly being unpatentable over Miyamoto in view of Ohno as applied to claims 1 and 5, and further in view of an Examiner's Affidavit/Declaration regarding write-protected floppy disks on a 1990's PC, are respectfully traversed.

The 3/9/2009 Office Action admits that Ohno et al. does not teach selecting a backup memory area of an oldest age and prohibiting a write operation after repeated unsuccessful

AMENDMENT
U.S. Application No. 10/712,312

Atty. Docket No.: 723-1451
Art Unit No.: 3714

attempts, but contends that that it would have been obvious "to write to unprotected memory (Ohno's "old" data) after unsuccessful attempts to overwrite write protected memory for the purpose of not destroying critical data." (See, e.g., Office Action at page 3, para. 1 and page 6, para. 2-3.) In this regard, Applicant respectfully questions whether the Examiner has inadvertently misconstrued Applicant's claims as requiring repeated unsuccessful attempts to overwrite "protected" memory for the purpose of not destroying critical data. Applicant respectfully disagrees with the Office Action contentions in this regard for at least the reason that Applicant's invention does not attempt to write to "protected" memory areas and, moreover, Applicant's claims as presently amended clearly do not require attempting to write to a "protected" memory area.

Applicant's invention overcomes specific problems inherent to the use of flash memories in game systems which are not addressed by the prior art. The nature of electrically re-writable non-volatile "flash" memories in general, and in particular as used in game systems of the kind disclosed in Applicant's specification, is that after numerous erasures and writes the storage elements of these type of memories slowly break down and begin to deteriorate and then start to fail intermittently or else fail outright without any prior indication or warning signs. If this type of faulty operation occurs during a write attempt process, any data previously stored at the write location is usually immediately destroyed whether or not the write attempt is successful. Repeated attempts to perform the write, however, may result in a successful write. However, if an attempt is made to write to a defective memory element/area and the write attempt repeatedly fails, then the data which was to be saved can not be stored at that location and, moreover, any data previously stored at that location prior to the write attempt was destroyed by the write attempt process and is therefore permanently lost. Therefore, in order to preclude a potential

permanent loss of a last remaining instance of saved older game data in a game system that uses

this type of electrically re-writable non-volatile "flash" memory, Applicant's claimed

method/apparatus for saving the latest game data *does not allow the backup memory write*

process to result in an attempt to store game data in a last remaining backup area that contains

older game data. In other words, a memory backup area *will not even be made the target* of a

write attempt if it contains the only remaining instance of saved older game data (see, e.g., the

process flow diagram of Fig. 6 of Applicant's specification).

In the 3/9/2009 Office Action, the Examiner alleges that Applicant's claims 1, 2, 5-7 and

10 would be obvious when considering Ohno along with the Miyamoto '965 patent because: 1)

Miyamoto allegedly teaches the use of an electrically rewritable non-volatile memory for game

data backup in a game machine (referring to the '965 patent at col. 2, lines 41-47); 2) although

Miyamoto does not teach selecting a backup area containing previously stored game data of

oldest writing age, Ohno allegedly teaches overwriting older data with newer data for a related

invention (referring to the '525 patent at Figure 10, step ST9); 3) Miyamoto allegedly teaches a

memory controller for writing latest game data to a selected backup area (in Fig. 3) and allegedly

inherently teaches determining whether or not data was written unsuccessfully or successfully; 4)

although Miyamoto does not teach repeatedly attempt writing to the selected write-objective

backup area for a predetermined number of attempts if writing latest game data was not

successfully performed, Ohno allegedly teaches this because after a deletion of old data the

process in Figure 10 returns to step ST6 which the Examiner interprets as indicative of repeated

attempts to process data and therefore it would have been obvious to write to another old

memory region in Miyamoto's system (Office Action at page 5, para. 2-3); and 5) although

Miyamoto does not teach prohibiting further attempts of writing latest game data and ending the

backup writing process without storing the latest game data under the specific claimed conditions (Office Action at page 5, para. 4), Ohno allegedly teaches similar write protection (referring to Fig. 10, steps ST4 & ST7) and therefore allegedly "it would have obvious to write to unprotected memory after unsuccessful attempts to overwrite protected memory in Miyamoto's system for the purpose of not destroying critical data" (Office Action at page 6, para. 2-3).

Applicant respectfully traverses the above rejection of claims 1, 2, 5-7 and 10, and disagrees with the reasoning and application of the prior art as stated in the 3/9/2009 Office Action and summarized above for at least the reason that neither Ohno nor Miyamoto, considered either alone or together, teach or suggest Applicant's claims method/apparatus for the saving the latest game data in a game system using non-volatile electronically re-writable memory that precludes a backup memory writing process which must select a write-objective or "target" area into which to store data from among two or more backup memory data storage areas from making an attempt to store game data in a last remaining backup area that contains older game data.

In addition, neither Ohno nor Miyamoto, considered either alone or together, teach or suggest selecting *another* write-objective backup area of next oldest writing age among other remaining backup areas of said memory device if a predetermined number of attempts to write said latest game data to a first selected write-objective backup area are unsuccessful and then precluding a writing the latest game data to the "another" write-objective backup area and terminating a game data backup writing process without storing the latest game data if an attempt to write the latest game data to a first selected write-objective backup area is unsuccessful after a predetermined number of attempts and the selected another write-objective backup area contains

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the only remaining instance of saved older game data, as set forth in Applicant's independent claims 1, 5, 10 and 11 as amended.

The Office Action also alleges that Applicant's claims 4, 9 and 11 would be obvious when considering Ohno along with the Miyamoto '965 patent and further in view of the Examiner's self-authored Affidavit/Declaration in which he states that he used floppy disks during the mid-1990's to store information and that attempts to write or erase data on a write-protected floppy disk (e.g., on a 1990's PC) resulted in a command prompt output message informing that the media was write-protected. As Applicant understands it, the Office Action is basically alleging here that claims 4, 9 and 11 are considered to be obvious because Miyamoto in view of Ohno teach everything claimed except for the displaying of a predetermined alarm message when the writing is prohibited, but that this aspect would be obvious in view of the Examiner's personal knowledge of attempts to write or erase data on a write-protected floppy disk on a 1990's PC. If this is the case, Applicant respectfully disagrees for at least the reason that claims 4, 9 and 11 have nothing to do with attempting to write or to erase data in a write-protected portion of a memory and, therefore, can not possibly be obvious in view of Miyamoto and Ohno. In addition, as discussed above, neither Ohno nor Miyamoto, considered either alone or together, teach or suggest the features of independent claim 11 as amended.

For at least the above reasons, it is respectfully submitted that Applicant's independent claims 1, 5, 10 and 11 are patentable over the individual as well as the combined teachings of these references.

Claims 2, 4, 6, 7 and 9 are dependent on either claims 1 or 5. Since neither Ohno nor Miyamoto nor the Examiner's Affidavit concerning floppy disk storage in the 1990's teach or suggest the features or steps as discussed above and set forth in Applicant's independent claims 1

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and 5 as amended, it is respectfully submitted that these dependent claims are also patentable over the individual as well as the combined teachings of these references.

As all objections and rejections raised in the Office Action have been addressed by the present Amendment, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Applicants' undersigned representative, using the telephone number listed below the signature line, to conduct an interview in an effort to expedite prosecution in connection with the present application.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application.

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Respectfully submitted,

NIXON & VANDERHYE P.C.

By: William G. Niessen
Reg. No. 29,683
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WGN/edg
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100